January 24, 2002
113 Farida Drive
Asheville, NC 28804

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse:

I wish to comment on the proposed settlement with Microsoft. As a developer
and engineer of 18 years experience, I have closely watched the industry,
and seen Microsoft repeatedly extend its illegal monopoly. Now, they have
been caught violating the law, and the government proposes essentially to
ignore it (this is the opinion of no less an authority an authority than
Robert Bork). Judge Bork says that the proposed settlement clears the way
for Microsoft to extend its monopoly to most if not all areas of the
industry. This is unacceptable.

The proposed settlement would be a very bad thing for the country.
Currently, I am a security engineer. Microsoft treats security as a public
relations, rather than a technical, problem. The implications for the
country's infrastructure to be at the mercy of a merciless and
security-incompentent company are frightening. Do you want Russian mobsters
reading your email? Well, don't worry, Microsoft will hire public relations
people to help you feel better about it.

There is the larger issue of justice. This company has done wrong, and the
government, after an exhaustive effort to prove it, proposes letting them
get away with it. Laws that are not enforced are worthless. Please
strengthen the remedies
against Microsoft.

I have the following specific comments:

       1) The PFJ lacks effective enforcement. Microsoft should be forced
to
       pay for enforcment against itself. It should post a signficant bond
against

this eventuality.

2) The PFJ provides for increased technical disclosure, but this provision
    is flawed in the following ways:

        a) it fails to require advance notice of technical requirements

        b) the provision for releasing API information is not timely enough for   competing vendors to adapt their products to meet the requirements of
            section III.H.3

        c) several important APIs would remain undocumented

        d) unacceptable restrictions would be placed on the use of released

            documentation

        e) file formats would remain undocumented

        f) Windows patents covering APIs would remain undisclosed

3) Microsoft is allowed by the proposed settlement to continue to discriminate
    against companies that pose any threat to its illegal monopoly.

        a) Section III.A.2. allows Microsoft to retaliate against any OEM

            shipping competing OSes without a Microsoft OS. This effectively

            requires OEMs to ship Microsoft always.

        b) Section III.B. allows Microsoft to retaliate against smallers OEMs.

        c) Microsoft is allowed to discriminate against ISVs who ship open

            source software. Since open source is the only competitive option on

            the desktop, this is clearly a monopolistic practice and should be

            prohibited

        d) Microsoft is allowed to discriminate against ISVs who target Windows
            compatible Microsoft OSes.

The proposed settlement is seriously flawed, and as written constitutes license for
Microsoft to destroy more good companies and extend their illegal monopoly.
Please address these issues.

Sincerely,

James R. Hurst